



3. Upon information and belief, if Mr. Bourke and defendant David Pinkerton were tried together, the proof as to their alleged knowledge of, and participation in, the activities at issue in the indictment in this case would be separate and distinct. Perhaps as few as one common witness would testify regarding these issues.

4. Attached hereto as Exhibit A is a true and correct copy of a transcript of an October 13, 2006 hearing in this matter before the Honorable Richard C. Casey.

5. Attached hereto as Exhibit B is a true and correct copy of a transcript of an October 26, 2006 hearing in this matter before the Honorable Richard C. Casey.

6. Attached hereto as Exhibit C is a true and correct copy of a transcript of a February 24, 2006 hearing in this matter before the Honorable Richard C. Casey.

7. Attached hereto as Exhibit D is a true and correct copy of the Amended Defence of the First, Third, and Fourth Defendants, dated March 6, 2001, submitted to the High Court of Justice Queens Bench Division in *Omega Group Holdings Ltd., et al. v. Viktor Kozeny, et al.*, which appears to have been executed by Viktor Kozeny.

Dated: New York, New York  
November 3, 2006

By: /s/ Steven S. Flores  
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